IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Writ Appeal under Clause 10 of the Letters Patent against the Order dated 21.10.1998 WP NO : 10259 of 1993 on the file of the High Court.)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 344 of 1999

Between:

1. Andhra Bank, rep. By it's Chairman and Managing Director, Central Office, Hyderabad;

2. General Manager (personnel), Andhra Bank Central Office, Hyderabad.

....Appellants/Respondents 1 & 2

AND

1. D. Ashok Kumar s/o Doraiswamy, aged 45 years, Computer Programmer (JR.I), Andhra Bank, Central Office, Hyderabad, R/o Hyderabad.

...RESPONDENT/Writ Petitioner

Counsel for the Appellants: MR. Nooty Rammohan Rao

Counsel for the Respondent No.: MR. M. Panduranga Rao.

The Court made the following:

ORDER: (Per the Hon'ble Smt. Justice T. Meena Kumari)

The Present writ appeal is filed by the appellants-bank (for short 'the Bank') questioning the Order dated 21.10.1998 in W.P.No.10259 of 1993, wherein the learned Judge allowed the said writ petition.

The respondent herein filed W.P.No.10259 of 1993, seeking a direction to declare the action of the Bank in keeping the results of the selection of the respondent-employee for promotion to Middle Management Gr.II, held during 1987-88 without there being any enquiry pending as on that date, as illegal and entitling him to the benefits of result of the selection for promotion, which was put in the "sealed cover" with effect from the date on which other persons of the same selection were given promotion, with all consequential benefits.

It is pertinent to mention that the respondent-employee was originally appointed as a Clerk on 7.12.1976 in the Bank and thereafter, he was promoted to Junior Manager, Grade-II on 31.12.1980. The next higher grade appears to be the Middle Manager, Grade-II, which is a promotional post. The respondent was called for an interview on 14.6.1987 before the Departmental Promotion Committee, but it appears that the recommendations of the said committee

were kept in a sealed cover and were not announced. In the said circumstances, the respondent had filed W.P.No.10259 of 1993, seeking direction insofar as keeping the results of the selection of the respondent for promotion to Middle Management Grade-II held during 1987-88 without any implementation. The learned single Judge, after hearing both the sides, allowed the writ petition and directed the bank authorities to give effect to the recommendations of the Departmental Promotion Committee.

Heard the learned counsel on both sides.

In the appeal, the stand taken by the Bank is that even though there was no disciplinary proceedings pending as on the date of selection of the respondent for promotion by the Departmental Promotion Committee, in pursuance of interviews held during April 1987. A departmental action was contemplated against the respondent-employee and hence, the recommendations of the Departmental Promotion Committee for the promotion of the respondent-employee were kept in a sealed cover.

Learned counsel for the appellants-bank relies on the Judgment of the apex Court in **Union of India vs. K.V.Janakiram**[1] to substantiate the contention of the Bank. But, however, the apex Court in **State of Madhya Pradesh vs. Syed Naseem Zahir**[2]**,** held that the "sealed cover" procedure could be adopted only after the date of the issuance of charge sheet, that being the date from which disciplinary proceedings could be taken to have been initiated. The apex Court also further held that the recommendations of the Departmental Promotion Committee and that the procedure of keeping in "sealed covers" *qua delinquent,* to be adopted post-issuance of charge sheet and not prior.

In this case, it is in dispute that no charge sheet is pending against the respondent-employee. In this regard, no material is placed by the appellant-bank that the charge sheet was issued on the date of the meeting of the Departmental Promotion Committee. Hence, the law laid down by the apex Court in **State of Madhya Pradesh vs. Syed Naseem Zahir** (2-supra) has to be applied in the instant case.

Following the same, the writ appeal is dismissed directing the appellants-bank to give effect to the recommendations of the Departmental Promotion Committee with reference to the interview held on 14.6.1987 and if it is found that the respondent-employee is selected for the said interview, he should be given promotion to the post of Middle Management Grade-II. There shall be a further direction that the respondent-employee shall be given notional promotion with all consequential benefits. No order as to costs.

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Justice T. Meena Kumari

2nd February 2005

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Justice S. Ananda Reddy

BCS

To

1. Two CD copies.